IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11605 of 1996

Between:

Ashok Kumar S/o.Shivaram Singh
R/o.Quarter.No.226,Type-I,(Special) CRPF Campus Hyderabad.

..... PETITIONER

AND

1 The Inspector General of Police, Central Reserve Police Force
Banjara Hills, Hyderabad.
2 The Deputy Inspector General of Police, Central Reserve Police Force
Chandrayanagutta Hyderabad.
3 The Addl.Deputy Inspector General of Police, Central Reserve Police Force
Chandrayanagutta Hyderabad.
4 Addl.DIGP Group Centre
CRPF Hyderabad Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to quash the order no.R.XIII-7/96-Estt.3.Dated 23-5-96 passed by the 2nd respondent removing the petitioner from service as G.D.Constable bearing no.911132821 Ex-Ct(Dvr.by issuing a Writ of Mandamus or issue any writ, order or direction in the interest of Justice.

Counsel for the Petitioner:MR.T.LAKSHMI NARAYANA

Counsel for the Respondents: MR.M.GANGA RAO

The Court made the following :

HON'BLE MR. JUSTICE GODA RAGHURAM

WRIT PETITION NO.11605 OF 1996

ORDER

Petitioner joined the Central Reserve Police Force (for short 'CRPF') as a Constable (Driver) on 19.8.1991. He was issued an indent permission for Motor Cycle permitting to proceed on official duty to Nampally, Secunderabad Railway Station and Sanathnagar on 20.08.1995. On the said date, when the petitioner and another Constable, B.H. Surya Rao were proceeding on the Motor Cycle, another colleague working in the CRPF and known to the petitioner is claimed to have requested that the petitioner should handover some amount to his father, on account of which, the petitioner proceeded from Sanathnagar to B.H.E.L. to handover the money. While so, an excise official, who was carrying two bags, sought a lift up to Patancheru. The petitioner admits to have accommodated the so-called excise official also and while they were proceeding, the vehicle was stopped at Patancheru by the officials of the Excise Department. The excise official, left the petitioner and his friend, another constable and the vehicle and vanished from the scene leaving the bags. The excise officials on seizing the bags found contraband liquor.

The petitioner was suspended and departmental enquiry was initiated and after conducting an enquiry, an order dated 17.2.1996 was passed removing the petitioner from service. The petitioner also preferred an appeal, which was rejected on 23.5.1996.

In respect of the excise offences, the petitioner was also charged in C.C. No. 65 of 1996 on the file of Special Court for Prohibition and Excise of Sangareddy, Medak District. However, he was acquitted along with the other accused by the order dated 02.07.2003.

The departmental enquiry was initiated against the petitioner by issuing of charge memo listing out two articles of charge namely; the petitioner and another constable committed misconduct of misuse of Government vehicle by traveling to Patancheru without the permission of the competent authority; and for moving unauthorizedly to Patancheru also without the permission of the competent authority. The petitioner's explanation as to the circumstances in which he proceeded to Patancheru was also taken note of. However, it was concluded by the disciplinary authority that the travel to Patancheru being without the permission of the competent authority constituted misconduct. He was on account of such established misconduct, visited with the penalty of removal from service by order dated 17.2.1996. The appellate authority did not deem it fit to interfere with the penalty either and by order dated 23.5.1996 confirmed the penalty of removal from service.

As the petitioner did make unauthorized use of the vehicle and went to Patancheru without the permission of the competent authority, the charge of having travelled to Patancheru without the permission of the competent authority is seen to have established. In fact, the petitioner admits having proceeded to Patancheru. But the fact of the matter is that for a misconduct of traveling to an unauthorized destination and that too Patancheru, which is at a short distance from

Sanathnagar to which the petitioner was officially permitted to travel, the extreme penalty of removal from service seems irrational, and grossly disproportionate to the misconduct. The petitioner is, no doubt, a member of a disciplinary force as an employee of CRPF. It should also be recognized that constables in the CRPF live under considerable stress, physical and psychological on account of deprivation of proximity with the family and spending long duration in barracks and in places distant from home. In these circumstances, it is administratively required that the employer should have due regard to these circumstances, even while considering the appropriateness of the quantum punishment having regard to the scale of misconduct alleged and established. For every minor deviation from discipline or

minor aberration in conduct, the extreme penalty of removal and dismissal from service, would not only would cause unwarranted trauma on the employee but would also in the long run not be conducive to the maintenance of discipline. Structured punishments/penalties for degrees of misconduct/offence, is a rational norm and also of penology evolved over time, in the evolution of law and order administration. Such structured punishments administered for varying degrees of offences for different species of malfeasance ensures that a person, who is likely to commit misconduct for a variety of reasons, might stop at the lessor misconduct. It is for all these reasons that proportionality in punishments has become an impregnated part of equality and non-arbitrariness in State action.

This Court is satisfied that the extreme penalty of removal from service imposed on the petitioner for the minor misconduct of mis-utilisation of Government vehicle and without the permission of authority, is grossly disproportionate and irrational. The conclusion of the petitioner having committed the misconduct is, however, correctly arrived at in the disciplinary proceedings and is confirmed herein.

In the circumstances, the order dated 17.2.1996 of the third respondent as well as the order of the second respondent dated 23.5.1996 confirming the order of the third respondent are set aside. The petitioner shall be entitled to all the benefits consequent on the invalidation *ab initio* of the order of removal and the appellate order confirming the order of removal. The petitioner shall be entitled to reinstatement duty, salary allowance and all other benefits. The respondents shall, however, consider what appropriate minor penalty could be imposed on account of the misconduct established against the petitioner in disciplinary proceedings. If such penalty is an amount of fine, the respondents shall be at liberty to deduct the amount of fine from the monetary component of the relief that the respondents are liable to pay to the petitioner on his success in this writ petition.

The writ petition is allowed as the above.

6th August, 2004

Tsr/Nn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Sixth day of August Two thousand and four.

Copy to:

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